

302 KAR 1:070. Corn referendum.

RELATES TO: KRS 247.6001-247.6035

STATUTORY AUTHORITY: KRS 247.6001-247.6035

NECESSITY, FUNCTION, AND CONFORMITY: KRS 247.6001-247.6035 authorize the commissioner to establish and determine the rules and administrative regulations to conduct a referendum among producers of corn for the purpose of promoting and stimulating by utilization research, market maintenance and expansion and education, the existing use and sale, domestic and foreign of corn and corn products.

Section 1. Definitions. As used in these rules and administrative regulations, unless the context requires otherwise:

- (1) "Commissioner" means the Commissioner of Agriculture;
- (2) "Board" means the State Board of Agriculture;
- (3) "Corn" means all kinds and varieties of corn except sweet corn and ornamental corns;
- (4) "Producer" means every person who produces and markets corn;
- (5) "New producer" means a producer who was not engaged in the business of producing corn at the time the referendum was conducted in accordance with the provisions of this administrative regulation;
- (6) "Person" means any individual, corporation, partnership, association, cooperative, or other business entity;
- (7) "Marketing year" means the twelve (12) month period from September 1 to August 31 of the following year;
- (8) "Referendum agent" means an employee of the State Department of Agriculture under the direction of the Commissioner of Agriculture;
- (9) "County referendum agent" means an appointed person by the Commissioner of Agriculture in a county where the corn referendum is held, as his agent for the conduct of the referendum;
- (10) "Kentucky Corn Growers Association" means an existing association, representative of the corn producers of Kentucky;
- (11) "Marketed" means any quantity of corn that is sold, bartered, or for which other items of value are exchanged in the state;
- (12) "Bushel" means fifty-six (56) pounds of corn by weight or as otherwise defined by the United States Department of Agriculture.

Section 2. Statewide Referendum. The corn producers referendum will be conducted in all of the 120 counties in Kentucky.

Section 3. Who may Vote. (1) Each person engaged in the production of corn on a commercial basis, including owners of farms on which corn is produced, and tenants and sharecroppers sharing in the proceeds of corn shall be eligible to cast one (1) vote in the referendum, provided the producer is eighteen (18) years of age or older.

(2) Without limiting subsection (1) of this section, each person whose name regularly appears on checks issued in payment for the sale of corn is eligible to cast one (1) vote in the referendum regardless of the ownership of the farm upon which corn was produced. No person who certifies to the county referendum agent that he is a producer of corn shall be refused a ballot, but the person may be required to furnish the county referendum agent with information specific enough for the commissioner to verify the person's voting eligibility before the ballot is counted.

Section 4. Voting Place. The commissioner shall establish a voting place in each county within

the state where producers of corn reside. The voting place shall be in the county extension service office in each county where the referendum is conducted. The referendum agent shall provide an area where each voter can mark his ballot in privacy. Only one (1) voter shall be permitted in the voting area at one time. One (1) or more county referendum agents shall be permitted in each voting place for the purpose of conducting the referendum. The county referendum agent shall be in charge of and be responsible for the voting area. Campaigning for or against the referendum will not be permitted in the county extension service office during voting hours.

Section 5. Hours of Voting. The voting places will be open from 9 a.m. to 3 p.m. local time and eligible voters will be permitted to vote only during that period of time or by absentee ballot as set forth in Section 6 of this administrative regulation. Voters will be permitted to vote only in the county of their residence or in the case of a corporate producer in the county where its principal place of business is located.

Section 6. Absentee Voting. Voting by absentee ballot will be permissible; provided, that a request for an absentee ballot is made in writing to the commissioner at least ten (10) days in advance of the referendum voting date. The absentee ballot must be signed and returned to the commissioner on or before the referendum voting date.

Section 7. Referendum Voting Date. The corn producers referendum voting date will be set by the commissioner after certification of the referendum. The date determined for the referendum, hours and polling places, the effective date of the assessment, if adopted, the amount and basis of the assessment proposed to be collected, the means by which the assessment will be collected and the general purposes to which the assessment shall be applied will be published by the commissioner through the medium of the public press in the Commonwealth of Kentucky at least thirty (30) days before the date of the referendum, and direct written notice of the referendum date shall be given to each county referendum agent.

Section 8. Supervision of Referendums and Duties of County Referendum Agent. The commissioner shall provide the county referendum agent with a copy of these rules and administrative regulations. Each county referendum agent shall have in his possession and under his control a ballot box and the appropriate ballot forms, indelible marking pens, and other supplies sufficient to operate each voting place as established in Section 4 of this administrative regulation. Each prospective voter shall identify himself to the county referendum agent; and the voter will be required to sign a registration book giving his name, complete mailing address, and telephone number. The registration book shall be maintained by the county referendum agent. Upon signing the registration book, each prospective voter will receive an approved ballot form from the county referendum agent. The official ballot, after it has been completed by the voter, shall be placed in the ballot box.

Section 9. Approved Ballot Forms. The commissioner shall furnish each county referendum agent in advance with official ballot forms. The official ballot forms shall state the question to be presented to the voters. The question presented shall show that the corn producer is voting on whether or not the corn producer is in favor of the collection by the Kentucky Corn Growers Association of an assessment for the purpose of financing a promotional program to stimulate by utilization research, marketing maintenance and expansion, and education, the increase use and sale, domestic and foreign of corn and corn products and for the prevention, modification, or elimination of trade barriers which obstruct the free flow of corn and corn products to market. The assessment collected by the purchasers of corn or corn products will be sent to the Kentucky Corn Growers Association to be used as provided in KRS 247.6001-247.6035. The assessment to be deducted from the payment for

corn delivered after October 1, 1990, in the following amount for a marketing year which is September 1 to August 31 of the following year; one-quarter (0.25) percent per bushel.

Section 10. Custody of Ballot Box and Referendum Material. Each county referendum agent shall provide a ballot box large enough to enclose all ballots cast in the referendum and to protect the ballots to ensure that the information on the ballots is held in confidence. The county referendum agent shall mail to the Department of Agriculture, all marked ballots and registration books used for the referendum. The ballots and registration books shall be mailed in a properly secured manila envelope or folder.

Section 11. Confidential Information. All ballots cast, the identity of the person who voted, or the manner in which any person voted, and all information furnished to, compiled by or in the possession of the commissioner, the county referendum agent, shall be regarded as confidential. The commissioner shall retain the records, the ballots, the results of the referendum, and all other information furnished to or compiled by the commissioner in regard to the referendum for a period of twelve (12) months.

Section 12. Counting of Votes. Within five (5) days after the referendum, the commissioner shall designate an area within the department's office to be used for counting the votes cast in the referendum. The vote count shall be conducted by employees of the department, but the Kentucky Corn Growers Association, and any organization actively engaged in the production of corn or corn products in Kentucky, may each have one (1) representative present during the counting of the votes. The organization shall establish, to the satisfaction of the commissioner, that it desires to observe the counting of the ballots for a legitimate purpose.

Section 13. Announcement of Referendum Results. Announcement of the results of the referendum will be made only by the commissioner. The referendum agent or others who assist in the referendum shall not disclose any information in regard to the referendum. The commissioner will announce the results within ten (10) days after the referendum.

Section 14. Referendum Costs. All costs and expenses incurred by the commissioner in connection with the referendum shall be borne by the association conducting the referendum. The commissioner shall notify the association of all documented costs and expenses incurred in conducting the referendum including mailing and shipping costs, within ninety (90) days of the date the results of the referendum are announced by the commissioner.

Section 15. Affirmative Vote. An assessment approved by an affirmative vote as defined by Section 13 of the Act, shall be collected and remitted on or before the fifteenth day of the month following the end of the month in which the corn is sold to the purchaser in the manner determined and announced by the association conducting the referendum.

Section 16. Subsequent Referendum. Any subsequent referendum among the producers which provides that the eligible producers may vote with regard to whether the corn producer assessment approved by affirmative vote should be continued or terminated shall be conducted in accord with the provisions of this administrative regulation. Except that the official ballots shall show that the question to be presented to the voters is whether or not the one-fourth (1/4) of one (1) percent assessment on the gross marketed price per bushel on the corn marketed in the state shall continue after the market year in which the referendum is conducted. (17 Ky.R. 160; Am. 1060; eff. 8-22-90.)